

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

v.

No. 08-M-51

DIANE FERRETTI,
Defendant.

APPEARANCES:

HON. GLENN T. SUDDABY
United States Attorney for the
Northern District of New York
Attorney for United States
Room 231
James T. Foley U.S. Courthouse
Albany, New York 12207-2924

HON. ALEXANDER BUNIN
Federal Public Defender for the
Northern District of New York
Attorney for Defendant
39 North Pearl Street
Fifth Floor
Albany, New York 12207

**DAVID R. HOMER
U.S. MAGISTRATE JUDGE**

OF COUNSEL:

EDWARD P. GROGAN, ESQ.
Assistant United States Attorney

TIMOTHY E. AUSTIN, ESQ.
Assistant Federal Public Defender

REPORT-RECOMMENDATION¹

Presently pending is the motion of defendant Diane Ferretti ("Ferretti") for an order finding her mentally incompetent to stand trial in accordance with 18 U.S.C. § 4241(d). An examination of Ferretti was conducted at the Metropolitan Correctional Center in

¹This matter was referred to the undersigned for report and recommendation pursuant to 28 U.S.C. § 636(b)(3) and N.D.N.Y.L.R. (Criminal) 58.1(a)(2)(K).

Chicago, Illinois by Dr. John A. Pindelski, a Federal Bureau of Prisons clinical psychologist. A written report of that examination was received on June 10, 2008.² The report recommended that Ferretti be found incompetent to stand trial. A hearing concerning Ferretti's motion was held on June 16, 2008 in accordance with 18 U.S.C. §§ 4241(c) and 4247(d). At that hearing, the United States offered no objection to Dr. Pindelski's findings and conclusions.

WHEREFORE, good cause appearing for the findings and conclusions of Dr. Pindelski, it is hereby

RECOMMENDED that:

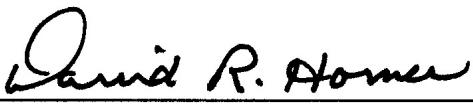
1. In accordance with 18 U.S.C. § 4241(d), defendant Diane Ferretti be found to be suffering presently from a mental disease rendering her mentally incompetent to the extent that she is unable to understand the nature and consequences of the proceedings against her or to assist properly in her defense;
2. Defendant Diane Ferretti be committed to the custody of the Attorney General for treatment in a suitable hospital facility; and
3. In accordance with 18 U.S.C. § 4241(d)(1), a further hearing be held within four months to determine whether there is a substantial probability that in the foreseeable future, defendant Diane Ferretti will attain the capacity to permit the trial of the above-captioned case to proceed.

Pursuant to 28 U.S.C. § 636(b)(1), the parties have ten days within which to file written objections to the foregoing report. Such objections shall be filed with the Clerk of

²The report shall be filed by the Clerk under seal in the docket of this case.

the Court. **FAILURE TO OBJECT TO THIS REPORT WITHIN TEN DAYS WILL PRECLUDE APPELLATE REVIEW.** Roldan v. Racette, 984 F.2d 85 (2d Cir. 1993) (citing Small v. Sec'y of HHS, 892 F.2d 15 (2d Cir. 1989)); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e).

DATED: June 16, 2008
Albany, New York



United States Magistrate Judge